

Mr. HELMS. I understand the same thing. I have about 2 minutes more. I will stop now.

Mr. REID. No, no. We thought the Senator from North Carolina was going to speak much longer. We would be happy to wait until—

Mr. HELMS. I wouldn't think of putting you in that position.

Mr. President, let me yield to the Senator on condition that I will have the floor when the Senate reconvenes.

Mr. REID. It is my understanding the Senator would want the floor when the Senate comes back in session?

Mr. HELMS. I think that was my unanimous consent request.

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Mr. President, I ask unanimous consent the Senate stand in recess subject to the call of the Chair on the condition that when the Senate does reconvene the Senator from North Carolina will resume the floor.

There being no objection, the Senate, at 2:32 p.m., recessed subject to the call of the Chair and reassembled at 3:37 p.m. when called to order by the Presiding Officer (Mr. CARPER).

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Carolina.

Mr. HELMS. Forgive me for not standing, but who has the floor?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

##### AMENDMENT NO. 1724

Mr. HELMS. Mr. President, I will finish my statement in a moment, but, first of all, I ask unanimous consent that the Senator from Nebraska, Mr. HAGEL, be added as a cosponsor to amendment No. 1724, now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I do not know how many people were listening breathlessly when I made the first part of my statement earlier today, but I will not repeat it. I will have mercy upon you.

This is a very important amendment. I want to serve notice to the managers of the bill that I shall not contest or try to contest any motion that may be made on this amendment. I do hope the managers will give some thought as to whether they will support my offering this amendment freestanding as a bill, but that is up to them.

Mr. President, to complete my statement that I began earlier, the Veterans of Foreign Wars of the United States has sent me a letter in support of my amendment. I want to read part of it. It is from Robert E. Wallace, the Executive Director. It is addressed to all Members of the Senate, dated October 2. It says:

On behalf of the 2.7 million members of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, I want to express our strong support for amendment number 1690 to the National Defense Authorization Act, S. 1438, the "American Service Members' Protection Act of 2001." We think this legislation brought forward by Senators Jesse Helms (R-NC) and Zell Miller (D-GA) is an appropriate response to the threat to American sovereignty and international freedom of action posed by the International Criminal Court. Also, we believe it is essential that our nation's military personnel be protected against criminal prosecution under procedures inconsistent with our Constitution.

We oppose the International Criminal Court (ICC) in its present form. We believe it poses a significant danger to our soldiers, sailors, airmen, and Marines, who are deployed throughout the world. U.S. military personnel and other U.S. Government officials could be brought before this court even though the United States is not a party to the treaty. The court will claim jurisdiction to indict, prosecute, and imprison persons accused of "war crimes," "crimes against humanity," "genocide," and other "crime of aggression" (not yet defined by the ICC).

I ask unanimous consent the entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

#### VETERANS OF FOREIGN WARS OF THE UNITED STATES,

Washington, DC, October 2, 2001.

To: All Member of the U.S. Senate.

From: Robert E. Wallace, Executive Director.

On behalf of the 2.7 million members of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, I want to express our strong support for amendment number 1690 to the National Defense Authorization Act, S. 1438, the "American Service Members' Protection Act of 2001." We think this legislation brought forward by Senators Jesse Helms (R-NC) and Zell Miller (D-GA) is an appropriate response to the threat to American sovereignty and international freedom of action posed by the International Criminal Court. Also, we believe it is essential that our nation's military personnel be protected against criminal prosecution under procedures inconsistent with our Constitution.

We oppose the International Criminal Court (ICC) in its present form. We believe it poses a significant danger to our soldiers, sailors, airmen, and Marines, who are deployed throughout the world. U.S. military personnel and other U.S. Government officials could be brought before the court even though the United States is not a party to the treaty. The court will claim jurisdiction to indict, prosecute, and imprison persons accused of "war crimes," "crimes against humanity," "genocide," and the "crime of aggression" (not yet defined by the ICC). These crimes are expansively defined by the treaty and would be interpreted by the court's judges, who will be appointed with no input from the United States. The ICC will not be required to provide Americans the basic legal protections of the constitution. We think it is wrong to expect our servicemen and women to serve their country under this threat.

Also, it is equally important the President, cabinet members, and other national security decision-makers not have to fear international criminal prosecution as they go about their work. Congress has a responsibility to ensure that Americans are not brought before an international criminal tri-

bunal for simply performing their duty to their country.

The Veterans of Foreign Wars of the United States supports enactment of this amendment to S. 1438 as written. Therefore, we strongly urge you to support this amendment offered by Senator Helms and others, and vote for the amended bill when it comes to the floor of the Senate for vote.

Mr. HELMS. Mr. President, I hope Senators will support this legislation, to protect soldiers and their civilian leaders from this new U.N. court. The President and his national security team support the legislation and have raised no concerns about acting on it now. In fact, there is greater need to enact this legislation now. We must not send our troops out to fight terrorists, or any other aggressors, without protection from trumped-up claims that they committed "war crimes", "crimes against humanity" or some new, undefined, catch-all "crime of aggression" before the Court.

I urge support for this legislation.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will momentarily make a parliamentary inquiry as to germaneness. I say to my friend, who has been by my side in the Senate the 23 years I have been here, I was a cosponsor from day one. Should the Senator elect to pursue this as a freestanding or in other measures legislatively, I would like to be a cosponsor.

At the appropriate time—I see another colleague who wishes to address the issue—I will make the inquiry with regard to germaneness. The distinguished chairman and myself have made clear, in order to manage this bill, I will have to move for those amendments on my side, and he is going to move accordingly on germaneness for amendments on his side.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand the postcloture situation we are now in and the germaneness argument that the Senator from Virginia has just placed.

I stand in support of the concept and the intent that Senator HELMS brings to the floor as it relates to the International Criminal Court.

I, along with Senator HELMS and a good many others, have worked for some time to clarify this Nation's position in relation to the Rome treaty and the International Criminal Court. We became signatories to that in the final days of the Clinton administration and even then President Clinton spoke about it with concern. We are now faced with participating or not participating in something that we believe, as the Senator has just spoken to, puts our men and women in uniform at risk and the possibility that an international body, as adjunct of the United Nations, might choose to prosecute them, even though they were under the direct orders of our Commander in Chief in the execution of their duties.